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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/613,338	07/02/2003	Keith Gilstrap	KG0007	5120
36489	7590	03/28/2005	EXAMINER	
LEYENDECKER LEMIRE & DALEY, LLC C/O PORTFOLIO IP P.O BOX 52057 MINNEAPOLIS, MN 55402			ELKINS, GARY E	
			ART UNIT	PAPER NUMBER
			3727	

DATE MAILED: 03/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.



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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
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10/613,338

EXAMINER

ART UNIT      PAPER

20050323

DATE MAILED:

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner for Patents

See the attached Notice of Non-Compliant Amendment and explanatory page.

  
Gary E. Elkins  
Primary Examiner  
Art Unit: 3727



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## Notice of Non-Compliant Amendment (37 CFR 1.121)

The amendment document filed on 2/24/05 is considered non-compliant because it has failed to meet the requirements of 37 CFR 1.121. In order for the amendment document to be compliant, correction of the following item(s) is required. Only the corrected section of the non-compliant amendment document must be resubmitted (in its entirety), e.g., the entire "Amendments to the claims" section of applicant's amendment document must be re-submitted. 37 CFR 1.121(h).

THE FOLLOWING CHECKED (X) ITEM(S) CAUSE THE AMENDMENT DOCUMENT TO BE NON-COMPLIANT:

1. Amendments to the specification:  
 A. Amended paragraph(s) do not include markings.  
 B. New paragraph(s) should not be underlined.  
 C. Other \_\_\_\_\_
2. Abstract:  
 A. Not presented on a separate sheet. 37 CFR 1.72.  
 B. Other \_\_\_\_\_
3. Amendments to the drawings: \_\_\_\_\_
4. Amendments to the claims:  
 A. A complete listing of all of the claims is not present.  
 B. The listing of claims does not include the text of all pending claims (including withdrawn claims)  
 C. Each claim has not been provided with the proper status identifier, and as such, the individual status of each claim cannot be identified. Note: the status of every claim must be indicated after its claim number by using one of the following 7 status identifiers: (Original), (Currently amended), (Canceled), (Withdrawn), (Previously presented), (New) and (Not entered).  
 D. The claims of this amendment paper have not been presented in ascending numerical order.  
 E. Other: \_\_\_\_\_

For further explanation of the amendment format required by 37 CFR 1.121, see MPEP Sec. 714 and the USPTO website at <http://www.uspto.gov/web/offices/pac/dapp/opla/preonnotice/officenewer.pdf>.

If the non-compliant amendment is a PRELIMINARY AMENDMENT, applicant is given ONE MONTH from the mail date of this letter to supply the corrected section which complies with 37 CFR 1.121. Failure to comply with 37 CFR 1.121 will result in non-entry of the preliminary amendment and examination on the merits will commence without consideration of the proposed changes in the preliminary amendment(s). This notice is not an action under 35 U.S.C. 132, and this ONE MONTH time limit is not extendable.

If the non-compliant amendment is a reply to a NON-FINAL OFFICE ACTION (including a submission for an RCE), and since the amendment appears to be a *bona fide* attempt to be a reply (37 CFR 1.135(c)), applicant is given a TIME PERIOD of ONE MONTH from the mailing of this notice within which to re-submit the corrected section which complies with 37 CFR 1.121 in order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD ARE AVAILABLE UNDER 37 CFR 1.136(a).

If the amendment is a reply to a FINAL REJECTION, this form may be an attachment to an Advisory Action. The period for response to a final rejection continues to run from the date set in the final rejection, and is not affected by the non-compliant status of the amendment.

Legal Instruments Examiner (LIE)

Telephone No.

GARY E. ELKINS  
PRIMARY EXAMINER  
ART UNIT 287 3727

***Explanatory Attachment to Notice of Non-Compliant Amendment***

Effective 30 July 2003, amendments filed under 37 CFR 1.121 must be filed using the following rules:

When there is an amendment to the specification, the location of the paragraph or section to be deleted, replaced, or where a new paragraph or section is to be added, must be unambiguously identified. Text of a new paragraph or section should not be underlined.

Deletion of a paragraph or section must only include an instruction to delete, and the location of the paragraph or section. A replacement paragraph or section must be a marked-up version showing the changes. A clean version of any replacement paragraph or section must *not* be submitted in addition to a marked-up version, except when applicant submits a substitute specification.

The amendment to the specification filed 24 February 2005 is non-compliant insofar as the replacement paragraphs are not submitted as a marked-up version showing the changes, i.e. with underlining and bracketing to show the changes. As noted above, a clean version of any replacement paragraph or section must *not* be submitted in addition to the marked-up version.

Current amendment practice is being strictly enforced because amendments are now being “entered” at the Printer when an application is being prepared for issue as a patent as opposed to the previous practice where a docket clerk physically entered the amendment. The current format avoids confusion by the Printer which could result in incorrect subject matter being printed in a patent at the time of issue.